

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
WESTERN DIVISION

LIBERTE CAPITAL GROUP,

Plaintiff,

Case No. 5:99 CV 818

-vs-

O R D E R

JAMES A. CAPWILL, et al.,

Defendant.

KATZ, J.

On April 10, 2006, the Court conducted a fairness hearing on the proposed Liberte Capital Group/Alpha Capital Group (“Liberte/Alpha”) Settlement Agreement. Present at the hearing were class counsel for both the Alpha and Liberte Investor classes as well as each class representative. Also in attendance was the General Receiver, the Assistant United States Attorney and the Trustee for the Heritage Financial Network, Inc., as well as a small number of individual investors.

The road to the fairness hearing has been long and frustrating, especially to the investors who are the victims at the center of this financial debacle. Since the inception of this case in 1999, there have been Eighteen Status Reports filed by the various Receivers. The Court acknowledges the assistance of not only class counsel but that of the present Receiver for working with all involved to achieve the present settlement. Additionally, the Court recognizes the efforts of the court-appointed expert, David Tantlinger, and mediator, the Hon. Richard B. McQuade guiding the parties through the resolution process successfully.

Class counsel for each investor group reiterated their understanding that notice of the agreement had been mailed to every known investor in the class. The Receiver confirmed that 99% of the Alpha investors were notified and that 91.4% of the Liberte investors received notice of the proposed settlement. Each class representative present also acknowledged assent to the agreement. The Court acknowledges that only one written objection regarding the proposed settlement from an Alpha investor was filed and that this investor did not appear at the fairness hearing. No other investors present at the hearing asked to be heard on the proposed agreement. The Trustee for Heritage Financial Network, representing a group of Alpha investors, stated his approval of the settlement.

Based upon the written filings and oral representations at the hearing, the Court finds that proper notice was afforded the Liberte and Alpha investors. The Court has also carefully reviewed the settlement agreement and finds it to be fair and equitable. Although it is true that the investors will never be made whole, the settlement is as fair and equitable as possible in light of the assets and the history of this case.

Accordingly and for the reasons set forth above, the Court approves the Liberte/Alpha Settlement Agreement. The Receiver is directed to submit a status report in 45 days regarding the status and timing of the initial disbursement.

IT IS SO ORDERED.

s/ David A. Katz
DAVID A. KATZ
SENIOR U. S. DISTRICT JUDGE